IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP Nos. 1405 & 1412 of 2007

Judgment reserved on:13.9.2007

Date of decision: Ist October, 2007

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1. **CWP No. 1405 of 2007**

Naresh Kumar **Petitioner**

Versus

H.P. University **Respondent**

2. **CWP No. 1412 of 2007**

Randhir Ranta **Petitioner**

Versus

H.P. University **Respondent**

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The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K.Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioners: Mr. Ashwani Pathak, Advocate

For the Respondent: Mr. V.D.Khidta, Advocate

Deepak Gupta, J.

By this judgment we shall dispose of two writ petitions since identical questions of law and facts are involved in both the cases.

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

CWP No. 1412 of 2007 has been filed by Dr. Randhir Ranta whose grievance is that the H.P. State Administrative Tribunal has wrongly not granted any interim relief in his favour. CWP No. 1045 of 2007 has been filed by Naresh Kumar, who is a student of H.P. University. He is also President of the Students Welfare Association and has filed this petition in public interest. The controversy is short. The respondent-University invited applications in the month of November, 2006 for filling up posts of teachers in H.P. University. At the relevant time no guidelines or criteria had been laid down for selection of the teachers. The teachers were being appointed only on the basis of interview.

On 27.7.2007 the Executive Council held a meeting and approved certain criteria/guidelines to screen the applicants for recruitment to the posts of teachers (Category-A) in the H.P. University. In these guidelines 80 marks were kept for Scholastic Attainment and 20 marks for viva voce.

Dr. Randhir Ranta filed an Original Application before the H.P.State Administrative Tribunal in which he challenged the policy as being irrational and challenged the allocation of marks. One of the main grounds raised

was that the persons who had qualified the NET/SET and were thus eligible to get direction admission in Ph.D were not entitled to any marks whereas marks were allocated for persons who had qualified their M.Phil. Another ground was that the posts had been advertised in November, 2006 and the policy had been formulated in June, 2007 and, therefore, policy should not be applied to the posts advertised earlier. Some other grounds were also raised. Dr. Ranta had prayed that the policy framed by the University be stayed. Since stay was not granted he has filed the present writ petition. CWP No. 1045 of 2007 has been filed by Naresh Kumar in which the grounds of attack are virtually the same. It would be pertinent to mention that after we had heard the matter for some time and had made certain suggestions, the University has made certain changes in the scheme. The 80 marks meant for Scholastic achievements have been divided as follows:-

Sr.No.	**Criteria**	**Max Marks**	**As in original policy**	**As per approved changed policy**
(i)	**Qualifying Examination (Post Graduation)**	**40**	**Upto 59% marks: 3 marks For every 1% increase in marks: 1 mark. 95% & above: 40 marks**	**30 On pro rata basis**
(ii)	**M.Phil.**	**3**	**Upto 50% marks (or equivalent CGPA): 1 mark From 50% to 60% (or equivalent CGPA): 2 marks Above 60% (or equivalent CGPA):**	**5 (M.Phil/Pre Phd)**

			3 marks	
(iii)	**Ph.D**	**7**		**10**
(iv)	**Gold Medal**	**5**	**In any examination graduation & upwards**	**No change in marks. Applicable for PG and M.Phil levels**
(v)	**Co Curricular achievement**	**5**	**Participation in Olympics: 2 marks Participation in Asian Games, Commonwealth games, first position in National Championship, first position in Ntional Youth Festival, participation in Republic Day Parade: I mark per position/participation**	**No change in marks. Clarification: national championship also includes inter-university meets**
(vi)	**Publications**	**10**	**International, National Referred Journals: 1 mark each Authored books : 1 mark each Chapter in books (excluding proceedings of seminars/conferences): 0.5 marks each Edited books: 0.5 marks each Publications in popular magazines, newspapers etc: Nil on the relevant subject.**	**15 Points for research articles @ 0.5 for national and 1 for International referred Journals/ Related to impact factor of Journal No other change**
(vii)	**Teaching/ Post doctoral research experience**	**10**	**For Lecturer's appointment: Teaching experience against permanent appointment: 1 mark per completed academic year Teaching experience against full time contract/adhoc appointment: 0.5 marks per completed academic year Post doctoral research experience: 1 mark per year For Reader's appointment: Up to 8 years teaching experience: NIL 9th year onwards: 1 mark per completed academic year (post doctoral research experience to exclude time spent obtaining research experience)**	**No change in marks Clarification: Only for experience at equivalent level.**

The main challenge now made is that whereas 5 marks have been given to M.Phil/Pre-Ph.D candidate, no marks are being given to those candidates who have qualified NET/SET. It is contended on behalf of

the petitioners that NET/SET is a test conducted under the aegis of the University Grant Commission and it is the most brilliant people who qualify these tests. The people who qualify NET/SET do not have to do M.Phil and can straightaway join Ph.D. They are also eligible for being appointed as teachers. The contention is that by not awarding marks to the people who have done NET/SET the candidates who are more intelligent and have passed the NET/SET are being discriminated against whereas benefit is being given to beyond persons who failed to qualify the NET/SET and per force had to qualify the M.Phil course.

The stand of the University is that NET/SET is not an academic qualification. It is an entrance text conducted by the University Grant Commission to ensure minimum standard for entrance to the teaching profession and for research. It is common ground that people who have done their post graduation i.e. obtained MA/M.Sc. Degree and qualified NET/SET are eligible to be appointed as teachers.

At the outset we appreciate the efforts of the University in laying down a transparent criteria for selection of teachers. As noted above, prior to the

scheme being notified, appointments to the post of teachers in the University were being made only on the basis of an interview. No criteria was laid down and various questions were raised with regard to the effectiveness, transparency and honesty of the previous system. The University has taken a laudable step in laying down well defined criteria for grant of marks.

The main grouse of the petitioner is with regard to candidates who have qualified the NET/SET. We are aware that any scheme when it is initially framed may have some defects. The University is of the view that since NET/SET is only a qualifying text, no marks can be given for this test. On the other hand contention of the petitioners is that for all practical purposes persons who have qualified NET/SET are better placed than the persons who qualify M.Phil. Students who qualify the NET/SET do not have to qualify M.Phil. Therefore, according to the petitioners they should be awarded 5 marks like M.Phil/Pre Ph.D candidates.

In our considered opinion the question as to how the marks should be divided and awarded is a matter of policy to be decided by the Executive Council of the University. We cannot give directions as to how a policy

should be framed. However, we do feel that the contentions raised by the petitioners are not totally without merit. It is only students who fail to qualify NET/SET who join the M.Phil course. In case they have qualified the NET/SET, they are not required to do the M.Phil course and can straightaway join Ph.D. It may be true that NET/SET is only a qualifying test and is not an academic achievement, but then extra curricular achievements, publication, etc. are also not academic achievements in the strict sense.

However, as we have already indicated above it is not for the court to decide this question and the Executive Council of the University is best suited to decide whether marks should be given to NET/SET qualified candidates or not. The petitioners have prayed that till Executive Council considers these matters, appointments should not be made. We are not at all in agreement with this contention. The first petition has been filed by Dr. Randhir Ranta who has qualified M.Phil and has also done his Ph.D. He can have no grievance in this respect. The second petition is purported to be in the public interest. As already observed by us, the University has taken care of the public interest, by, for the first time

introducing a transparent method for recruiting teachers. We cannot bring this process to a halt. We, therefore, make it absolutely clear that the recruitment to the vacant posts shall be made strictly as per the new recruitment policy for appointment of teachers, as amended by the Executive Council vide its Notification dated 11th September, 2007. However, we further direct that in case the petitioners or any other persons make representation to the University that NET/SET qualified candidates should also be awarded some marks, then the Executive Council shall consider the said representation and pass a reasoned order either accepting or rejecting the same. The petitions are disposed of in the aforesaid terms. No order as to costs.

(Deepak Gupta), J.

October 1, 2007(K) (V. K. Ahuja), J.